Docket No.: 024534-0080 PATENT

OCT 0 5 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 1923
William J. Braun et al.	:	Confirmation Number: 1702
Application No.: 09/930,913	:	Tech Center Art Unit: 3693
Filed: August 15, 2001	:	Examiner: Harish T. Dass

For: SYSTEM AND METHOD FOR EVALUATING REAL ESTATE FINANCING STRUCTURES

TRANSMITTAL OF APPEAL BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is Appellant's Appeal Brief in support of the Notice of Appeal filed April 2, 2007. Please charge the Appeal Brief fee of $510.00 to Deposit Account 13-0206.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. 1.17 and 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 13-0206 and please credit any excess fees to such deposit account.

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Respectfully submitted,

McDERMOTT WILL & EMERY LLP

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Date: October 2, 2007

CERTIFICATE OF MAILING (37 CFR. § 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First-Class Mail under 37 CFR 1.8(a) in an envelope addressed to Mail Stop Appeal Brief, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on **October 2, 2007**.

Stephen T. Scherrer, Reg. No. 45,080

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APPEAL BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed April 2, 2007, wherein Appellant appeals from the Primary Examiner's rejection of claims 1-20.

Real Party In Interest

This application is assigned to Jones Lang LaSalle IP, Inc. by assignment recorded on April 25, 2002, at Reel 012888, Frame 0186.

Related Appeals and Interferences

There are no related appeals or interferences.

Status of Claims

Claims 1-20 are currently pending in the present application. Claims 1-20 stand rejected and are the subject matter of the present appeal. The claims, as currently presented in this appeal, are attached as Appendix A.

Status of Amendments

There have been no amendments to claims 1-20 filed subsequent to the final rejection of claims 1-20.

Summary of Claimed Subject Matter

Generally, the method and system of the present invention, as claimed in independent claims 1 and 17 and respective dependent claims, relates to evaluating real estate financing structures that can be used to procure a real estate asset. Specifically, the method and system relate to determining an optimal financing structure among a plurality of financing structures for procuring a real estate asset. A user enters financial data and non-financial data relating to the real estate asset. The data is processed into indicator values that are evaluated with respect to the plurality of financing structures. A total score for each financing structure is computed and output by the computer. An optimal financing structure is determined based on the total score of each financing structure.

The term "financing structure" relates to how an entity or individual obtains control of the real estate asset, whether by ownership, leasehold or via some other financing structure.

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Independent Claim 1

Independent claim 1 relates to a method for evaluating financing structures for procuring a real estate asset, as described in the preamble of independent claim 1. The method comprises the following steps. The method comprises:

inputting information into a computer for processing the information wherein the information comprises financial data and non-financial data relating to the real estate asset;

providing a plurality of financing structures;

processing the financial data and the non-financial data into indicator values representing the financial data and the non-financial data;

evaluating the indicator values for the financial data and the non-financial data with respect to the plurality of financing structures to get a total score for each financing structure with the computer; and

outputting the total score for each financing structure from the computer to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset.

These steps are illustrated in the specification of the present application on page 6, line 20 to page 7, line 21; page 9, line 26 to page 22, line 2, including examples; and FIGs. 1 and 3-6D.

Independent Claim 17

Independent claim 17 relates to a system for evaluating financial structures for procuring a real estate asset. The system comprises:

means for inputting information wherein the information comprises financial data and non-financial data relating to the real estate asset;

a database comprising information relating to real estate financing structures; and

means for processing the financial data and the non-financial data into indicator values representing the financial data and the non-financial data;

means for evaluating the indicator values for the financial data and the non-financial data with respect to the real estate financing structures to get total scores for each real estate financing structure; and

means for outputting the total scores for each real estate financing structure to compare the total scores for each real estate financing structure to obtain an optimal financing structure for procuring the real estate asset.

As with independent claim 1, these elements are illustrated in the specification of the present application on page 6, line 20 to page 7, line 21; page 9, line 26 to page 22, line 2; and FIGs. 1 and 3-6D. Moreover, the means plus functions phrases, namely "means for inputting information," "means for processing the financial data and the non-financial data into indicator values," "means for evaluating the indicator values," and "means for outputting the total scores for each real estate financing structure" are described in the specification at page 7, lines 14-21.

Grounds of Rejection To Be Reviewed By Appeal

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,680,305 to Apgar, IV ("Apgar IV") in view of Julian R. Franks et al., "Valuation of Financial Lease Contracts," The Journal of Finance, Vol. 33, No. 2 (May 1978), pp. 657-669 ("Franks"), U.S. Patent No. 6,675,149 to Ruffin et al. ("Ruffin"), and Storms, Phillip, "Using Mortgage Credit to Achieve Client Objectives," Journal of Financial Planning. Denver: Oct. 1996, Vol. 9, Iss. 5, p. 77, 9 pages ("Storms").

Argument

Rejection of Claims 1-20 Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-20, including independent claims 1 and 17, under 35 U.S.C. § 103(a) as being unpatentable over Apgar IV, Franks, Ruffin and Storms. For the reasons stated below, Applicants respectfully submit that the claims, as a group, distinctly define the claimed subject matter in view of the cited references. Specifically, Applicants respectfully submit that (1) the Examiner has misapplied the cited references, especially Apgar IV, in view of an apparent faulty understanding of the present invention; (2) has applied cited references that fail to disclose each and every element of the claimed invention, whether taken alone or in combination; and (3) has applied impermissible hindsight reconstruction by picking and choosing among isolated disclosures to deprecate the claimed invention.

I. The Examiner has Misapplied Apgar IV Because of an Apparent Faulty Understanding of the Present Invention.

As demonstrated below, it appears that the Examiner has a faulty understanding of the present invention. This faulty understanding has led the Examiner to misapply the cited references—particularly

Apgar IV—thereby arguing that Apgar IV discloses important elements of the claims. In the following discussion, Applicants respectfully point out the Examiner's faulty understanding of the present invention and how that faulty understanding has led the Examiner to misapply Apgar IV against the present invention. Moreover, Applicants point out how Apgar IV fails to teach or disclose the elements of the present invention when viewed with a correct understanding of the present invention.

Applicants respectfully point out that the present invention relates to providing a plurality of financing structures, processing the financial data and the non-financial data into indicator values representing the financial data and the non-financial data with the computer, evaluating the indicator values for the financial data and the non-financial data with respect to the plurality of financing structures to get a total score for each financing structure with the computer, and outputting the total score for each financing structure from the computer to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset.

The term "financing structures" relates to how a real estate asset is either owned and/or leased by and entity or an individual. Examples of financing structure may include ownership, leasehold or other control structures. For example, financing structures may include, but are not limited to, purchase of the real estate such as with corporate funds, debt via a real estate investment trust, or via a partnership or joint venture with another individual or entity. Likewise, an individual may lease real estate such as via a short-term lease, a long-term lease, a credit sale and lease back, a tax-motivated leveraged lease or a synthetic lease, for example. *See* Specification, p. 1, line 29 to p. 7, line 5.

The term "indicator values" relates to the numerical values that are assigned to factors, such as factors relating to the financial data and non-financial data, that are used to create total scores for each

financing structure upon evaluation of the indicator values. The indicator values are generally described in the specification of the present application at p. 6, line 28 to p. 7, line 13.

The present invention provides an analysis of a real estate asset with respect to a plurality of financing structures to obtain an optimal financing structure for procuring the real estate asset. The invention does this by processing both the financial data and non-financial data entered by a user into the indicator values that can be evaluated with respect to each financing structure. Therefore, the data, which may have different importance depending on which financing structure is being evaluated, can be evaluated, and a total score for each financing structure can be output. Each financing structure for the real estate asset can then be directly compared against one another, and the financing structure that is optimal for that real estate asset can be obtained for that user.

Apgar IV fails to teach or even remotely suggest the present invention either alone or in combination with the other cited references, as defined in independent claims 1 and 17. Specifically, the Examiner argued, in the final Office Action dated December 1, 2006, that Apgar IV:

> discloses a system and method for evaluating and [sic] transaction process of real estate for purchase, lease and/or use by business and negotiating lease or buy component [col. 1 lines 7-15, 40-47; figure 1 and associated description]. (P. 3)

On the contrary, Apgar IV does <u>not</u> disclose a system and method for evaluating a transaction process of real estate. The general teaching of Apgar IV is best summarized by its Abstract:

> Systems and methods of the invention provide objective evaluations of a business entity's real estate situation and condition for use by customers including (but not limited to) the business entity.

Apgar IV teaches compiling a single score, based on indicators such as Amount, Price, Grade, Area and Risk, which directly relates to the health or condition of the real estate. (*See* Apgar IV, col. 1, lines 53-54). Apgar IV teaches compiling the indicators to generate the single score for that individual

real estate. The single score is then compared against a predefined scale that informs one of the general condition of the real estate. For example, Apgar IV discloses:

> Preferably, each of the five indicators below is scaled for a total score of 10. . . . For example, a score of 5 or below generally highlights the need for the Business Entity's management to focus on real estate issues. (Col. 7, lines 3-8.)

This single score merely informs an individual as to the condition of a piece of real estate on a predefined scale, and has nothing to do with outputting a total score for each of a plurality of financing structures and comparing the total scores to inform an individual of how best to procure or finance the real estate asset, as in the present invention.

Except for the fact that Apgar IV relates, generally, to real estate, the present invention is entirely different than the subject matter of Apgar IV. The fatal flaw in the Examiner's position is that Apgar IV simply does not relate to determining how best to procure a single real estate asset by comparing total scores for a plurality of financing structures, but instead relates to evaluating the condition of a real estate asset—for example, one that is already owned by the entity. The present invention, not disclosed in Apgar IV, or any other reference, as noted below, fulfills the question of how best to procure the real estate asset by determining the optimal financing structure among a plurality of financing structures for that real estate asset. In effect, because Apgar IV and the present invention are directed at entirely different questions, one would not look to Apgar IV to solve the problems solved by the present invention.

The Examiner cited column 1, lines 7-15 and 40-47, as well as Figure 1 and associated description for support of his contention in the final Office Action that Apgar IV discloses a system and method of evaluating a transaction process of real estate. While Apgar IV indicates that financing structure information is important for a proper analysis of the condition of the real estate, nowhere in the

cited excerpts does Apgar IV disclose that Agar IV provides an evaluation of a plurality of financing structures for the procurement of the real estate asset. As noted, Apgar IV relates to evaluating the real estate asset's condition, not the financing structures that may be utilized to procure the real estate.

The Examiner further argues that Apgar discloses:

> evaluating the indicator values for non-financial data with respect to the plurality of financing structure (lease/buy/ownership) to get a total score for each indicator with the computer [Figure 21; col. 1 lines 23-31 (example); col. 7 lines 24-27 (see "Tenancy status:, occupies, owns and "Encumberances," lien; also rent/employee and risk indicator]. (Final Office Action dated December 1, 2006, p. 3)

As a preliminary matter, the Examiner again has mischaracterized the present invention by stating that Apgar IV discloses getting "a total score for each <u>indicator</u> with the computer." (emphasis added) The present invention defines outputting "a total score for <u>each financing structure</u>," not each indicator. As noted above, the term "financing structure" refers to how a real estate asset is either owned and/or leased by an entity or an individual, while the term "indicator value" refers to the numerical values that are placed on factors, such as factors relating to the financial data and the non-financial data, that are used to create total scores for each financing structure upon evaluation of the indicator values. Nowhere does the present invention claim obtaining a total score for each "indicator," as argued by the Examiner.

Moreover, Apgar IV simply does <u>not</u> disclose evaluating the data (financial <u>and</u> non-financial) with respect to the plurality of financing structures, despite the Examiner's conclusory statements to the contrary. Reviewing the cited excerpts of Apgar IV, it becomes clear that the form of ownership or leasehold status is simply an existing condition on the real estate asset that is important to determine the health or condition of the real estate asset. This is simply one of the factors that is input into the system

of Apgar IV. However, Apgar IV provides no comparative or evaluative data relating to this information.

In addition, the Examiner argues that Apgar IV discloses:

> outputting total scores [col. 16 lines 34-48; col. 2 lines 59-61] for each financing structure (indicators, price) to compare the total scores of for [sic] each indicator [col. 17 lines 8-10; col. 19 lines 31-46]. (See Final Office Action dated December 1, 2006, p. 4)

The Examiner has again mischaracterized the present invention, as defined in independent claims 1 and 17. Specifically, claim 1 defines, "outputting the total scores for each financing structure from the computer to compare the total scores of all <u>financing structures</u>" (emphasis added), not to compare the total scores of each <u>indicator</u>.[1] Again, the indicator values are quite different from the financing structures, as noted above.

Moreover, contrary to the Examiner's position, Apgar IV does <u>not</u> disclose outputting the total score for each financing structure. Specifically, the excerpt at col. 16 lines 34-48 relates to outputting a <u>single</u> score . This single score merely informs an individual as to the health or condition of the real estate.

Reviewing the cited excerpts by the Examiner (col. 19 lines 31-46), the Examiner again appears to confuse "financing structure" with "indicators," which, of course, are entirely different terms having different meanings. The excerpt at col. 19, lines 31-46 relates to the combination of values to determine a "total price" indicator. The "total price indicator" is not the same as a "financing structure." Moreover, this excerpt further describes the output of only the single indicator, as opposed to the total score for each of a plurality of financing structures, as required by the claims.

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[1] Claim 17 defines "means for outputting the total scores for each <u>real estate financing structure</u> . . ."

Thus, the Examiner has rejected claims 1-20 based on a faulty understanding and reading of the present invention, which has led the Examiner to find various elements of the present invention in Apgar IV. Under a correct understanding of the present invention, Apgar IV simply does not teach or disclose the elements of the invention as argued by the Examiner. For these reasons, the Examiner has failed to present a *prima facie* case of obviousness in applying Apgar IV to the claims of the present invention.

2. The Examiner has applied cited references that fail to disclose each and every element of the claimed invention, whether taken alone or in combination

Besides the fact that Apgar IV fails to teach or disclose the elements that the Examiner has argued in the Final Office Action dated December 1, 2006. The Examiner has, significantly, acknowledged that Apgar IV fails to disclose a number of elements of the present invention:

> Apgar . . . does not explicitly disclose providing a plurality of financing structures; evaluating the indicator values for the financial data with respect to the plurality of financing structures; outputting the total scores for each financing structures from the computer to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset. (Final Office Action dated December 1, 2006, p. 4.)

However, the Examiner argues that Franks, Ruffin and Storms teach the missing elements. However, as detailed below, none of the cited references supply the missing elements.

Specifically, Franks fails to supply the missing elements of independent claims 1 and 17. The Examiner argues:

> Franks . . . discloses providing a plurality of financing structures (lease v. buy), and evaluating the indicator values for the financial data (lease payment, interest, tax factor, cash flow, optimizing lease payments) with respect to the plurality of financing structures. (Final Office Action dated December 1, 2006, p. 4)

However, Applicants respectfully submit that Franks does not supply the missing elements, as argued by the Examiner. The cited disclosure of Franks merely presents a simple formula for lease

valuation by making a lease versus buy and borrow comparison. Nothing in Franks relates to the required elements in independent claims 1 and 17, as acknowledged by the Examiner.

Nothing in Franks relates to evaluating <u>indicator values</u> for the financial data and non-financial data with respect to the plurality of financing structures <u>to get a total score for each financing structure</u> with the computer, and outputting the total score for each financing structure from the computer to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset.

The Examiner further states that Ruffin discloses outputting the total scores. The Examiner argues:

> Ruffin et al . . . discloses outputting the total score and compare the total scores [see enter document particularly, Abstract, Figure 2 (#201, 207-208), 4 (#405, #403), 9: C1 L15-L30; C3 L1-C4 L48 – see solution proposal, financial services, different types of business service or solution scenarios, financial tools; C18 L 12-L25 see financing model] to generate ranked score for facilitating the selection of one or more of the product. (Final Office Action dated December 1, 2006, pp. 3-4)

However, Applicants respectfully submit that Ruffin does not supply the missing elements. The cited disclosure to Ruffin presents a matching system for matching potential information technology enhancement projects to the information technology resources and priorities of an enterprise. [<u>see</u> Ruffin Abstract and independent claims: "A method, system and program product for matching . . . an information technology enhancement project with the resource and priorities of an enterprise is presented herein."] Ruffin inventories an enterprise's enhancement resources and prioritizes potential enhancement projects based on the importance of the particular resources of the firm. Nothing in Ruffin relates to real estate financing structures or obtaining an optimal financing structure for procuring real estate or even obtaining optimal financing structures for purchasing in general.

Further, Ruffin and the present invention address completely unrelated problems and therefore it would not have been obvious to a person having ordinary skill in the art to modify the disclosures of Apgar IV and Ruffin to supply the missing elements from Apgar IV. Whereas the present invention relates to evaluating real estate financing structures to determine the optimal finance structure for procuring real estate, Ruffin relates to matching a potential enhancement project with the resources and priorities of an enterprise.

With respect to Storms, the Examiner argues that Storms discloses:

> Purchase computer systems, financing structures to obtain an optimal financing structure for procuring real estate asset [see page 1-9 particularly page 3, 5-6, 8] to obtain best (optimal) and most efficient financing with attractive rates. (Final Office Action dated December 1, 2006, p. 4)

However, Storms merely teaches different applications of mortgage debts, explaining the types of people and the set of circumstances in which it would make financial sense to take on mortgage debt. Thus Storms fails to provide the missing elements. Specifically, Storms fails to supply the missing element of obtaining an <u>optimal</u> financing structure among a plurality of financing structures for procuring the real estate asset.

The Examiner further argues:

> It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of Apgar, Ruffin and Storms to obtain an optimal financing (best and most efficient) financing based on evaluations for a given property and ranking of customers (clients) credit scores. (Final Office Action dated December 1, 2006, p. 4).

Applicants respectfully submit that the combination of the disclosures of Apgar IV, Franks, Ruffin and Storms does not lead to the claimed invention. Specifically, Apgar IV still relates only to evaluating the health or condition of a real estate asset. There is no acknowledgement in Apgar IV, or

any other reference, of the problem that is solved by the present claimed invention, which is to output the total score for each of a plurality of financing structures to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset. Since Apgar IV is directed to a completely different problem, one cannot merely substitute the disclosures of Franks, Ruffin and Storms and arrive at the claimed invention. To apply the cited references in the way argued by the Examiner, Apgar IV would need to disclose a system and method that is fundamentally different than what it actually discloses. For this reason, the Examiner has failed to present a *prima facie* case of obviousness in combining the references of Apgar, Franks, Ruffin and Storms.

3. **The Examiner has applied impermissible hindsight reconstruction by picking and choosing among isolated disclosures to deprecate the claimed invention**

As noted above, the combination of the cited references do not teach or disclose each and every element of the claimed invention, taken alone or together. However, assuming *arguendo* that the cited references of Franks, Ruffin and Storms supply the missing elements of Apgar IV to arrive at the claimed invention, the Examiner has merely pieced together the elements of the claimed invention by utilizing the claimed invention as a template for finding and asserting the cited references. This is the epitome of hindsight reconstruction, which is, of course, impermissible.

The Examiner should recognize that even if the prior art *could* be modified so as to result in the combination defined by the claims, the modification would not have been obvious unless the prior art suggested the desirability of the modification. *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986). In the absence of such a prior art suggestion for modification of the references, the basis of the rejection is no more than inappropriate hindsight reconstruction using Appellants' claims as a guide. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967).

Conclusion

Applicants respectfully submit that (1) the Examiner has misapplied the cited references, especially Apgar IV, in view of an apparent faulty understanding of the present invention; (2) has applied cited references that fail to disclose each and every element of the claimed invention, whether taken alone or in combination; and (3) has applied impermissible hindsight reconstruction by picking and choosing among isolated disclosures to deprecate the claimed invention.

For all of the foregoing reason, Appellant respectfully submits that the ground of rejection of the claims on appeal is in error and should be reversed. The Examiner has failed to present a *prima facie* case of obviousness in combining Apgar IV, Franks, Ruffin and Storms.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account and please credit any excess fees to such deposit account.

Respectfully submitted,

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CLAIMS APPENDIX

Claim 1 (on appeal): A method for evaluating financing structures for procuring a real estate asset, the method comprising the steps of:

inputting information into a computer for processing the information wherein the information comprises financial data and non-financial data relating to the real estate asset;

providing a plurality of financing structures;

processing the financial data and the non-financial data into indicator values representing the financial data and the non-financial data with the computer;

evaluating the indicator values for the financial data and the non-financial data with respect to the plurality of financing structures to get a total score for each financing structure with the computer; and

outputting the total score for each financing structure from the computer to compare the total scores of all financing structures to obtain an optimal financing structure for procuring the real estate asset.

Claim 2 (on appeal): The method of claim 1 further comprising the steps of:

assigning and applying weights to the indicator values that represent the importance of the financial data and the non-financial data for each financing structure; and

evaluating the weighted financial data and the non-financial data to get a total score of the financial data and the non-financial data for each financing structure.

Claim 3 (on appeal): The method of claim 1 wherein the financing structures comprise an ownership financing structure and a lease hold financing structure.

Claim 4 (on appeal): The method of claim 1 wherein the financing structure may be selected from the group consisting of: ownership using corporate funds, ownership with debt, a real estate investment trust, a partnership, and a joint venture.

Claim 5 (on appeal): The method of claim 1 wherein the financing structures may be selected from the group consisting of: a short term-lease, a long-term lease, a credit sale/leaseback, a tax motivated leverage lease, and a synthetic lease.

Claim 6 (on appeal): The method of claim 1 wherein the financing structures may be selected from the group consisting of: ownership using corporate funds, ownership with debt, a real estate investment trust, a partnership, a joint venture, a short-term lease, a long-term lease, a credit sale/leaseback, a tax-motivated leveraged lease, and a synthetic lease.

Claim 7 (on appeal): The method of claim 1 further comprising the step of:

manipulating the financial data into performance metrics and assigning weights to the performance metrics to determine a financial data total, score.

Claim 8 (on appeal): The method of claim 1 wherein the financial data is selected from the group consisting of: a net present value after tax factor, an economic value-added factor, a total debt to capital factor, a capital requirement factor, a profit and loss ("P&L") cost impact factor, an earnings before interest and tax ("EBIT") interest coverage factor, an earnings before interest, tax, depreciation and amortization ("EBITDA") interest coverage factor, a free cash flow to total debt factor, a funds from operations to total debt factor, a diluted earnings per share ("EPS") from continuing operations factor, an operating profit/net sales factor, a return on assets factor, a return on equity factor, and a return on total capital factor.

Claim 9 (on appeal): The method of claim 1 wherein the non-financial data is selected from the group consisting of: a strategic importance factor, a facility size factor, a replacement cost factor, a

degree user specific factor, a market value/book value factor, a length of commitment factor, a certainty of occupancy factor, a flexibility factor, a market conformance factor, a size of market factor, a quality of market factor, and a rent/value trend factor.

Claim 10 (on appeal): The method of claim 1 wherein the information relates to financial data of the entity desiring to procure the real estate.

Claim 11 (on appeal): The method of claim 1 further comprising the step of:

evaluating the entity desiring to procure the real estate asset and the real estate asset for the financial and the non-financial data.

Claim 12 (on appeal): The method of claim 1 further comprising the step of:

evaluating the real estate asset and the entity desiring to procure the real estate asset; and

designing a model that processes the financial and the non-financial information into indicator values.

Claim 13 (on appeal): The method of claim 1 wherein the evaluation of the entity comprises reviewing documentation of the entity and interviewing personnel from within the entity.

Claim 14 (on appeal): The method of claim 1 further comprising the step of:

processing the financial factors into performance metrics of the entity desiring to procure the real estate asset.

Claim 15 (on appeal): The method of claim 1 further comprising the step of:

converting the financial information into standardized units prior to assigning the indicator values to the financial information.

Claim 16 (on appeal): The method of claim 1 further comprising the steps of:

performing a sensitivity analysis of performance metrics for each financing structure.

Claim 17 (on appeal): A system for evaluating financial structures for procuring a real estate asset comprising:

means for inputting information wherein the information comprises financial data and non-financial data relating to the real estate asset;

a database comprising information relating to real estate financing structures;

means for processing the financial data and the non-financial data into indicator values representing the financial data and the non-financial data;

means for evaluating the indicator values for the financial data and the non-financial data with respect to the real estate financing structures to get total scores for each real estate financing structure; and

means for outputting the total scores for each real estate financing structure to compare the total scores for each real estate financing structure to obtain an optimal financing structure for procuring the real estate asset.

Claim 18 (on appeal): The system of claim 17 further comprising:

means for assigning weights to the indicator values that represent the importance of the financial data and the non-financial data for each financing structure; and

means for evaluating the weighted financial data and the non-financial data to get a total score for the financial data and the non-financial data for each financing structure.

Claim 19 (on appeal): The system of claim 17 wherein the financing structures may be selected from the group consisting of: ownership using corporate funds, ownership with debt, a real estate investment trust, a partnership, a joint venture, a short-term lease, a long-term lease, a credit sale/leaseback, a tax-motivated leveraged lease, and a synthetic lease.

Claim 20 (on appeal): The system of claim 17 wherein the non-financial data is selected from the group consisting of: a strategic importance factor, a facility size factor, a replacement cost factor, a degree user specific factor, a market value/book value factor, a length of commitment factor, a certainty of occupancy factor, a flexibility factor, a market conformance factor, a size of market factor, a quality of market factor, and a rent/value trend factor.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE

CHI99 4885087-1.024534.0080